



PMC Cell – MM

## Oil and Natural Gas Corporation Ltd

Corporate Materials Management

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Circular No. 39/2020

No: MAT/PMC/13(18)/2020

Dated: 28.08.2020

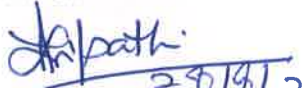
**Sub: Guidelines for Eligibility of Bidders from a Country sharing a land border with India.**

Reference is invited to PMC Circular 31/2020 dated 27.07.2020, whereby guidelines for Eligibility of Bidders from a Country sharing a land border with India were issued by enclosing O.M. No. F.6/18/2019-PPD dated 23.07.2020, along with Order (Public Procurement No. 1) dated 23.07.2020, Order (Public Procurement No. 2) dated 23.07.2020 and Order (Public Procurement No. 3) dated 24.07.2020 from Department of Expenditure, Ministry of Finance.

In continuation to above PMC Circular, relevant provisions of Instructions to Bidder (Annexure-I) and General term and Conditions (Annexure-II) of BL/01, BL/02 and Standard Tender Conditions for Service Contracts along with Bid Evaluation Criteria stand modified as per Annexure 1.

Wherever required, similar modification may be carried out in the tender conditions for Charter Hiring of Rigs and LSTK Contracts.

Above instructions should be meticulously followed by all concerned in all the future tenders and wherever techno-commercial bids are yet to be opened. Further, with regard to the other transitional cases, provisions as per circular no. 31/2020 should be followed by all concerned.

  
(A. P. Tripathi) 28/8/2020

ED-Chief MM Services

Distribution: (Through ONGC's intranet website 'ongcreports.net').

**All concerned may download the circular from the site. Hard copies are not distributed separately.**

Copy to:

1. EO to CMD, ONGC, New Delhi.
2. CEA to Director (T&FS) / Director (Offshore) / Director (HR) / Director (Exploration)/Director (Onshore) / Director (Finance), ONGC, New Delhi.
3. CVO, ONGC, New Delhi.

**Existing vis-à-vis modified provisions of Standard Tender Conditions for Service contracts/ Standard Booklet No ONGC/MM/01 and Standard Booklet No ONGC/MM/02**

Para No.	Existing Provisions	Modified Provisions
Clause 56 of Annexure-I of ONGC/MM/01, Clause 52 of Annexure-I of ONGC/MM/02 and Clause 44 of Annexure-I of Standard Tender Conditions for Service Contracts	New Provision	<p><b><u>GUIDELINES FOR ELIGIBILITY OF A 'BIDDER FROM A COUNTRY WHICH SHARES A LAND BORDER WITH INDIA':</u></b></p> <p>(Order (Public Procurement No. 1) dated 23.07.2020, Order (Public Procurement No. 2) dated 23.07.2020 and Order (Public Procurement No. 3) dated 24.07.2020 issued by Department of Expenditure, Ministry of Finance, Govt, of India in this regard are available at website <a href="https://doe.gov.in/procurement-policy-divisions">https://doe.gov.in/procurement-policy-divisions</a> )</p> <ol style="list-style-type: none"> <li>1) Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.           <p>[Competent Authority for the purpose of registration shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT), as mentioned under Annex I of the Order (Public Procurement No.1) dated 23.07.2020]</p> </li> <li>2) "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.</li> <li>3) "Bidder from a country which-shares a land border with India" for the purpose of this Order means; -           <ol style="list-style-type: none"> <li>a. An entity incorporated, established or registered in such a country; or</li> <li>b. A subsidiary of an entity incorporated, established or</li> </ol> </li> </ol>

Para No.	Existing Provisions	Modified Provisions
		<p>registered in such a country; or</p> <ul style="list-style-type: none"> <li>c. An entity substantially controlled through entities incorporated, established or registered in such a country; or</li> <li>d. An entity whose <i>beneficial owner</i> is situated in such a country; or</li> <li>e. An Indian (or other) agent of such an entity; or</li> <li>f. A natural person who is a citizen of such a country; or</li> <li>g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.</li> </ul> <p>4) The <i>beneficial owner</i> for the purpose of (3) above will be as under:</p> <ul style="list-style-type: none"> <li>(i) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person (s), has a controlling ownership interest or who exercises control through other means.</li> </ul> <p>Explanation-</p> <ul style="list-style-type: none"> <li>a. "Controlling ownership interest" means ownership of or entitlement to, more than twenty-five per cent, of shares or capital or profits of the company;</li> <li>b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;</li> </ul> <ul style="list-style-type: none"> <li>(ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of</li> </ul>

Para No.	Existing Provisions	Modified Provisions
		<p>entitlement to more than <b>fifteen percent</b> of capital or profits of the partnership;</p> <p>(iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;</p> <p>(iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;</p> <p>(v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.</p> <p>5) An Agent is a person employed to do any act for another, or to represent another in dealings with third person.</p> <p>6) <b>CERTIFICATE REGARDING COMPLIANCE:</b></p> <p>a) Bidders shall submit following certificate:</p> <p><i>“We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India. We certify that bidder M/s. _____ (name of the bidder) is not from such a country or if from such a country, has been registered with the Competent Authority. We hereby certify that bidder M/s. _____ (Name of bidder) fulfills all the requirement in this regard and is eligible to be considered against the tender.”</i></p> <p>[wherever applicable bidder must submit evidence of valid registration by Competent Authority]</p>

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		<p>b) [To be inserted in tenders for Service Contracts/Works Contracts including Turnkey contracts- ] The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. Bidder shall submit the following certificate in this regard:</p> <p><i>“We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries.</i></p> <p><i>We certify that bidder M/s. _____(Name of bidder) will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority.”</i></p> <p>[wherever applicable bidder must submit evidence of valid registration by Competent Authority]</p> <p>If such certificate (as mentioned as (a) &amp; (b) above) given by a bidder whose bid is accepted, is found to be false, this would be a ground for immediate rejection of bid/termination of contract and forfeiture of EMD/Security Deposit.</p> <p>The above certificate shall form part of PO/contract.</p> <p>The registration, wherever applicable, should be valid at the time of submission of bids and at the time of acceptance of bids. If the bidder was validly registered at the time of acceptance / placement of order, registration shall not be a relevant consideration during contract execution.</p> <p>7) Further, the above guidelines will not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects. Updated lists of countries to which lines of credit have been</p>

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		<p>extended or in which development projects are undertaken are given in the website of the Ministry of External Affairs, Govt. of India.</p> <p>8) 'Agent' mentioned in the above guidelines also includes dealer/distributor/sole selling agent.</p>
<p>Clause 55 of Annexure-II of ONGC/MM/01, Clause 45 of Annexure-II of ONGC/MM/02 and Clause 39 of Annexure-II of Standard Tender Conditions for Service Contracts</p>	<p>New Provision</p>	<p>In case, certificate submitted by the supplier during tendering stage with regard to "Guidelines for eligibility of a 'Bidder from a Country which shares a land border with India' " as mentioned under Instruction to Bidder of Tender document, is found to be false, then their contract shall be terminated and Security deposit shall be forfeited.</p>
<p>Standard Bid Evaluation Criteria for Procurement of Goods- Indigenous/ICB and Services – Indigenous/ICB</p>	<p>New Provision</p>	<p><b><u>B.2 Commercial Rejection Criteria</u></b></p> <p>3.1 Bidder should confirm their acceptance that they comply with the provisions with regard to "Guidelines for eligibility of a '<i>Bidder from a Country which shares a land border With India</i>' " as detailed at Annexure-I "Instructions to Bidders". Bidder should also submit the requisite certificate as mentioned.</p>